



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 179 OF 2005

Gangadhar Kacharu Dukare
Age: 32 years, Occu: Service,
Leacturer in History,
Smt. G. G. Khadase Science &
Smt. K. M. Chaudhary Arts &
Commerce College, Muktainagar,
Dist. Jalgaon, R/o. Khupti,
Tq. Newasa, Dist. Ahmednagar.

...PETITIONER

VERSUS

- 1] Muktainagar Taluka Education Society,
Muktainagar, Dist. Jalgaon,
Through its Chairman.
- 2] The Principal,
Smt. G. G. Khadase Science &
Smt. K. M. Chaudhary Arts &
Commerce College, Muktainagar,
Dist. Jalgaon.
- 3] The North Maharashtra University,
Jalgaon, through its Registrar.

...RESPONDENTS

...
Mr. V. D. Hon, Senior Advocate i/by Mr. Kailas B. Jadhav, Advocate for
the Petitioner.
Mr. S. R. Barlinge, Advocate for the Respondent Nos. 1 and 2.
None for Respondent No.3.

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CORAM : KISHORE C. SANT, J.
RESERVED ON : 25th SEPTEMBER 2025.
PRONOUNCED ON : 15th OCTOBER 2025.

JUDGMENT :-

1. Heard Mr. Hon, the learned Senior Advocate for the petitioner and Mr. Barlinge, the learned Advocate for the Respondent Nos. 1 and 2. Inspite of service, none appears for the Respondent No.3/University. The petition is heard finally by consent of parties for final disposal.
2. A challenge in this Writ Petition is to an order passed by the learned Presiding Officer, University and College Tribunal, Aurangabad, dated 26-08-2004 passed in an Appeal No. NMU-07 of 2004.
3. By way of impugned Judgment and Order, the learned Presiding Officer was pleased to dismiss the appeal filed by the present petitioner seeking quashment of his termination order passed by present Respondent Nos. 1 and 2, terminating his services. Respondent No. 3 is the University to which the College is affiliated.

4. It is the case of the petitioner that, he was possessing qualification of M.A. in History and was eligible to be appointed as a lecturer in Senior College for the subject of History. He belongs to Wadar caste, which comes under NT(A) and DT(A). It is further his case is that he was selected by the duly constituted Selection Committee and appointed by the Management. His further case is that the termination order amounts to be stigmatic, and therefore, it was necessary to conduct an inquiry before passing an order.

5. On the contrary, the case of the Respondent-Management, in short, is that the petitioner was appointed purely on a temporary and part-time basis. He was not qualified as he was not possessing qualification of NET or SET. Therefore, in view of regulations of the University Grants Commission, he was not eligible as a lecturer. His appointment was also subject to acquiring this qualification. The order is not stigmatic and is purely for the reason that the petitioner could not fulfill the eligibility criteria. Thus, the appointment is non-stigmatic, and consequently, no inquiry was necessary.

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6. The facts not disputed in the present petition are that, petitioner happens to be a person belonging to Reserve Category. An advertisement was issued by the Management on 18-08-1999 inviting applications for the post of lecturers. The Management had called for names from the Backward Class (B.C.) Cell of the University. The petitioner, thereafter, appeared in the interview before the Selection Committee and was selected on 09-12-1999. The petitioner, thereafter, came to be terminated. He was again called and was appointed. However, finally on 31-03-2024, he was again given a notice of termination on the ground of absenteeism and non-satisfactory performance.

7. Learned Senior Advocate Mr. Hon, vehemently argued that the petitioner was appointed as a qualified person. The appointment was on probationary basis. Looking to the order, it states that the petitioner's performance was not satisfactory, that the students were not satisfied with his performance, and that he remained absent. The petitioner did not have sufficient knowledge of his subject. He thus submits that, all the things mentioned in the termination order clearly show that the

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order is stigmatic. By that time, the petitioner had worked for five years with the institution, therefore, his services could not have been terminated without conducting an inquiry. He thus submits that the order of termination was totally illegal. The learned Presiding Officer of the Tribunal failed to appreciate these material facts and dismissed the appeal. He submits that, the post of lecturer in History subject is still vacant, and the petitioner can be appointed even now. He thus submits that the petition deserves to be allowed.

8. Learned Senior Advocate Mr. Hon further submits that though the NET-SET qualification was necessary at the relevant time. However, by way of subsequent Government Resolution (G.R.) in the year 2013, the Government had relaxed the condition of possessing NET-SET qualification.

9. The learned Advocate Mr. Barlinge, appearing for Respondent Nos. 1 and 2, vehemently opposes the petition. By inviting attention to all the orders of appointment, he submits that the appointment of the petitioner

was as a part-time teacher and subject to acquiring NET/SET qualification. The approval by the University was also as a part-time teacher. G.R. of 2013 issued will not help the petitioner, as the Government Resolution dated 22-12-1995 was in force, when the petitioner was appointed and later on terminated. The mentioning of non-satisfactory performance, in no case, would make order stigmatic one. The Tribunal has rightly appreciated all these contentions. There was no inquiry necessary as the petitioner was terminated on the ground of not possessing requisite qualification and unsatisfactory performance. The petitioner had even approached the University Grievance Committee. The University had not granted approval as a full-time permanent teacher. He further submits that, even as on today, there is nothing to show that the petitioner possesses the NET and SET qualifications. The Government Resolution dated 27-06-2013 cannot be made applicable unless the University grants the exemption from acquiring necessary qualification. No teacher without requisite qualification can be continued in service. Even in G.R. of 2013 requires

certain conditions, which are also not fulfilled by the petitioner. He thus prays for rejection of the petition.

10. The learned Senior Advocate, in rejoinder, submits that in the advertisement, there is nothing to show that the advertisement was issued for a part-time lecturer. G.R. of 2013 covers the period from 2000 onwards, and thus, the petitioner's case can be still considered.

11. On going through the submissions and the petition, the questions those arise are: firstly, as to whether the petitioner's appointment was as a full-time permanent lecturer; secondly, whether the petitioner's services could have been terminated without holding any inquiry; thirdly, whether the termination order amounts to a stigmatic or a simpliciter termination; and fourthly, whether the petitioner is eligible and whether petition can be allowed by directing reinstatement.

12. This Court has gone through the record annexed to the petition. It is seen that the petitioner was having a qualification of M.A. in History from Pune University. About his caste certificate, there is no dispute. A

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certificate is on record. The advertisement dated 18-08-1999 shows that applications were called for various posts, including a lecturer in History. It clearly stipulates the qualification as minimum of 45% marks in master's course. It is also further stated that the person must have the qualification of NET-SET. The first appointment was issued on 09-12-1999 showing that the petitioner was appointed as a part-time lecturer. There is no dispute about this. The appointment further shows that the appointment is subject to contents as per G.R. dated 22-12-1995, which requires a person to have the qualification of NET and SET. It does not show that it was a permanent appointment. The petitioner was thereafter again appointed on 27-03-2000. In this appointment also, it is clearly stated that the appointment is on a part-time basis and subject to the G.R. dated 22-12-1995, and it was necessary to acquire qualification of NET and SET. Third appointment is dated 22-11-2001. There is also a communication dated 22-11-2001. It was clearly stated that his appointment is coming to an end on 22-12-2001. This communication clearly stated that a notice of termination was given well in advance.

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13. However, subsequently, the management issued another communication dated 05-02-2003. The petitioner was requested to continue as a lecturer by withdrawing the earlier order. The petitioner, therefore, joined on 12-04-2003, pursuant to the order dated 27-02-2003.

14. On 31-03-2004, a notice was issued, and in this notice, it is stated that there are complaints from the students about non-satisfactory teaching by the petitioner. It is also stated that the petitioner was remaining absent. In this notice, it was stated that the services would be terminated on 30-04-2004. It is thus seen that, in the order of termination, there is a reference of receipt of complaints from the students about non-satisfactory performance of the petitioner. The question would be whether to call this notice as stigmatic. So far as acquiring of NET and SET qualification, this Court finds that there is nothing to indicate that the petitioner was possessing NET-SET qualification, and therefore, he was not eligible to be appointed as a lecturer. So far as the contention of the petitioner that, by way of

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Government Resolution of 2013, the NET-SET qualification was relaxed by the Government. It is seen in the present case that the petitioner already stood terminated in the year 2004. There was no question of making G.R. of 2013 applicable to him. Looking at the G.R., the wording shows that it applies only to lecturers who are still in service. The G. R. also requires that there is a proposal sent by University to continue such lecturer in service.

15. The Learned Tribunal has recorded that when the petitioner was informed about his non-satisfactory performance, he himself by communication dated 27-08-2003 had accepted that he was not in a position to give satisfactory performance and requested to give some other work in the college other than the teaching work. The Tribunal has, therefore, rightly concluded that no inquiry was necessary under such circumstances. Ultimately, the termination order states only about non-satisfactory work and has not put any other charge on the petitioner as such.

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16. The learned Presiding Officer, thereafter, rightly came to conclusion that though the inquiry was not held assuming that it was necessary, however, since the petitioner was not qualified, he could not have been appointed, and therefore, reinstatement cannot be directed. This Court also finds that the basic question would be as to whether the petitioner can be appointed to the post of lecturer in absence of the qualification. The learned Senior Advocate relied upon the following judgments.

(i) In the case of *Madha Taluka Shikshan Prasarak Mandal Vs. Prashant Kamlakar Narkhande and Ors.*¹, this Court, in the said judgment, held that when the order is stigmatic, it was necessary to hold an inquiry. It is further held that the regulations framed by the University Grants Commission (UGC) are binding upon the universities, teachers and colleges affiliated to such universities, and in the said petition that regulation was applicable. In that case, the petitioner had served for five years. In that case, the Court found that the order was stigmatic, and

¹ 2016(5) Bom.C.R. 253

therefore, it was set aside.

(ii) In the case of **Kodandpani R. Kulkarni Vs. Headmistress and Ors.**², it was found that the procedure of termination was not followed. There, the employee was appointed on probation. The order was found to be stigmatic, and it was held that the termination order was illegal.

17. The further reliance is on the UGC guidelines communicated in August 2011. It speaks about the exemption granted by the universities in the State of Maharashtra from the requirement of NET in terms of UGC Regulations 1991. It was considered that the appointments made during 19-09-1991 till 03-04-2000, were considered for relaxation from the qualification. However, it was in the year 2011. This Court finds that therefore it would not be applicable to the present case, even though the initial appointment of the petitioner was in the year 1999. However, it is the fact that in 2004 itself, he was terminated and was not in service on the day when this communication was issued. The further reliance of the petitioner on G.R. dated 18-10-2001, is also of no use. It clearly states

² 2011(5) Bom C.R. 403

that the exemption is only for the persons who were appointed prior to 11-12-1999. On this basis, the G.R. dated 27-06-2013 was issued by the Government. Clause 15 (d) shows that to claim exemption, there has to be a proposal sent by the university. In the present case, no such proposal was sent by the university for relaxation of the conditions in the case of the present petitioner. There was again a decision taken on 29-10-2021 by the Government of Maharashtra. However, the same again speaks that the services which are continued till 2013 are for the pension purposes.

18. The petitioner has also relied upon the judgment passed by this Court at Principal Seat in the case of ***Dr. Mahesh S/o. Prabhakar Kulthe and Ors. Vs. The Union of India and Ors.*** in the Writ Petition No. 10149 of 2010. The Division Bench of this Court had considered the cases of the petitioners for exemption from passing NET. It was held that the persons who were appointed during the period from 1991 to 2000. The Authorities were directed to consider the cases of the petitioners therein for grant of exemption from passing NET-SET with reference to the *Ethape*

observations made in the petition. It was on the direction to consider the cases. This Court does find that even this case will not help the petitioner in this petition.

19. This Court finds that no case is made out to allow the writ petition. Hence, the following order:

ORDER

- (i) Writ Petition stands dismissed with no order as to costs.
- (ii) Rules stands discharged in above terms.

[KISHORE C. SANT, J.]